

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DAVID BURNS,

Petitioner,

v.

RUSSELL, *et al.*,

Respondents.

Case No. 3:21-cv-00493-MMD-WGC

ORDER

Petitioner David Burns has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. However, because Burns did not pay the \$5.00 filing fee, nor did he submit an application to proceed *in forma pauperis* with a financial certificate and a copy of his inmate account statement, as required by 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, the Court will dismiss this action. Burns will need to commence a new action with either payment of the \$5.00 filing fee or filing a complete application to proceed in forma pauperis. A preliminary review of the petition indicates that a promptly commenced new action would not suffer any difficulties under the one-year time limit of 28 U.S.C. § 2244(d)(1).

Reasonable jurists would not find this conclusion to be debatable or wrong, and the Court will not issue a certificate of appealability.

It is therefore ordered that the petition for a writ of habeas corpus is dismissed without prejudice.

The Clerk of Court is directed to send Burns a blank form for an application to proceed in forma pauperis for incarcerated litigants with instructions and a blank habeas corpus petition form under 28 U.S.C. § 2254 with instructions. If Burns wishes to file a new petition for writ of habeas corpus, he must also either pay the filing fee in full or file a

1 complete application to proceed *in forma pauperis*, accompanied by a signed financial
2 certificate and a statement of his inmate account.

3 The Clerk of Court is further directed to enter judgment accordingly and close this
4 case.

5 It is further ordered that a certificate of appealability is denied.

6 DATED THIS 5th Day of January 2022.

7
8 

9 MIRANDA M. DU
10 CHIEF UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28